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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 REVERSE NOW VII, LLC,

11 Plaintiff,

12 v.

13 OREGON MUTUAL INSURANCE
14 COMPANY,

15 Defendant.

CASE NO. C16-209-MJP

ORDER GRANTING MOTION FOR
LEAVE TO AMEND ANSWER

16 THIS MATTER comes before the Court on Defendant Oregon Mutual Insurance
17 Company's Motion for Leave to Amend its Answer to the Amended Complaint. (Dkt. No. 54.)
18 Having reviewed the Motion, the Response (Dkt. No. 66), the Reply (Dkt. No. 70), and all
19 related papers, the Court GRANTS the Motion. The Court declines to hear oral argument on the
20 matter.

21 **Background**

22 Plaintiff Reverse Now VII, LLC filed this case in February 2016 alleging various claims
23 arising from its property insurance claim with Defendant Oregon Mutual Insurance Company
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1 (“Oregon Mutual”). (See Dkt. No. 1.) Under the scheduling order, the deadline to file amended
2 pleadings was September 7, 2017. (Dkt. No. 18.)

3 Oregon Mutual now seeks leave to amend its answer to add affirmative defenses of
4 misrepresentation and concealment. (Dkt. No. 54.) In particular, Oregon Mutual contends that
5 (1) Plaintiff’s public adjuster Paul Moreland did not have a valid public adjusters’ license at all
6 relevant times in violation of RCW 48.17.063, and (2) Plaintiff’s independent appraiser Randy
7 Gower was not “independent” or “impartial” due to his “close personal and professional
8 relationship” with Mr. Moreland. (Id. at 3-4.) Oregon Mutual contends that Plaintiff’s failure to
9 disclose this information voids the insurance policy and is critical to Oregon Mutual’s defense in
10 this case. (Id. at 5.)

11 Discussion

12 Federal Rule of Civil Procedure 16 governs motions to amend pleadings after the
13 deadline in the scheduling order and requires the moving party to establish “good cause” for any
14 such request. Fed. R. Civ. P. 16(b)(4). The Ninth Circuit has explained that the “good cause”
15 standard “primarily considers the diligence of the party seeking the amendment,” and that “the
16 focus of the inquiry is upon the moving party’s reasons for seeking modification.” Johnson v.
17 Mammoth Recreations, Inc., 975 F.2d 604, 609 (9th Cir. 1992) (citations omitted).

18 Oregon Mutual contends that it did not learn of Plaintiff’s alleged misrepresentations
19 regarding Mr. Moreland and Mr. Gower until April 9, 2018, and that this information was never
20 disclosed by Plaintiff. (Dkt. No. 70 at 4.) While Plaintiff responds that the facts regarding Mr.
21 Moreland’s public adjuster’s license and Mr. Gower’s alleged partiality were in the public record
22 and could have been uncovered “[w]ith the exercise of due diligence” (Dkt. No. 66 at 5-6), the
23 Court disagrees. Oregon Mutual apparently discovered the relevant information through its
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1 review of deposition transcripts filed in an unrelated litigation in the Eastern District of
2 Washington. (See Dkt. No. 55, Exs. A, B, C.) While such transcripts may be “public” in a
3 sense, “due diligence” does not require Oregon Mutual to obtain and review pleadings and
4 exhibits in all cases involving insurance disputes. Further, the Court finds that whether
5 Plaintiff’s alleged misrepresentations are material to Oregon Mutual’s defense raises factual
6 questions that must be resolved through discovery.

7 **Conclusion**

8 Having found good cause to modify its scheduling order, the Court GRANTS
9 Defendant’s Motion for Leave to Amend its Answer to the Amended Complaint. Defendant is
10 ORDERED to file its Amended Answer within five (5) days of the date of this Order.

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12 The clerk is ordered to provide copies of this order to all counsel.

13 Dated May 10, 2018.

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15 Marsha J. Pechman
16 United States District Judge
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